IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 474 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

1 to 5 NO

GUJARAT STATE ROAD TRANSPORT CORPN

Versus

GORISHANKER S VYAS

Appearance:

1. Special Civil Application No. 474 of 1994

MR JM BAROT for MR HS MUNSHAW for Petitioner No. 1

MR MUKESH H RATHOD for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 22/04/2004

ORAL JUDGEMENT

1. In this petition under Article 227 of the Constitution, the award of the Labour Court awarding reinstatement with 25% backwages is called into question. At the time of admission of the petition on 8.4.1994, by a reasoned order, this Court has taken note of the

respondent having been already reinstated and directed the petitioner to pay the awarded amount of backwages within three weeks on filing of an undertaking by the respondent.

2. It was argued by learned counsel Mr.J.M.Barot, appearing for Mr.H.S.Munshaw, that the respondent had a long record of misconducts and the last misconduct for which the respondent was dismissed also stood proved. In that context, it was seen that the defence of the respondent that he was sick on the day of the incident and he was also sick on the previous day was borne out by a medical certificate. It is also not clear whether the previous record of misconduct was proved before the Labour Court by cogent evidence and whether the respondent had had the opportunity to explain the same. Even in these circumstances, the Labour Court has denied to the respondent 75% of backwages for a period of about a decade during which the case of the respondent was pending before the Labour Court.

3. Since the Labour Court appears to have come to a correct conclusion in exercise of its wider jurisdiction, no interference is called for in exercise of the extraordinary jurisdiction of this Court under Article 227 of the Constitution. The petition is, therefore, rejected and Rule is discharged with no order as to costs.

Sd/-

(D.H.Waghela,J.)

(KMG Thilake)